

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARGARET DOWDELL, on behalf of herself,
MICHELLE SHRIKI, on behalf of herself, her
family, and all others similarly situated,

ORDER
10-CV-1332 (SJF) (ARL)

Plaintiffs,

-against-

JOHN E. IMHOF, as Commissioner of the Nassau
County Department of Social Services,

Defendant.

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FEUERSTEIN, District Judge:

On February 23, 2016, this Court granted plaintiffs’ motion for attorneys’ fees and costs incurred between April 1, 2011 and December 31, 2014 in the total amount of \$470,821.23. *See* Order of 2/23/16, Docket Entry (“DE”) [114]. On March 31, 2016, defendant filed a motion, by Order to Show Cause, to stay execution of judgment without bond pending final determination on appeal. *See* DE [116]. This Court declined to sign the Order to Show Cause. DE [117]. Currently before the Court is defendant’s motion on notice to stay execution of the judgment without bond, which is now fully briefed. DE [119].

Whether to grant a stay is “an exercise of judicial discretion, and the propriety of its issue is dependent upon the circumstances of the particular case.” *Nken v. Holder*, 556 U.S. 418, 433, 129 S. Ct. 1749, 173 L.Ed.2d 550 (2009) (internal quotation and citations omitted). The burden of establishing that an exercise of discretion is warranted belongs to the party requesting the stay. *Id.* at 433-34. In determining whether to stay a judgment pending appeal, a court considers “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the

stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Id.* at 434 (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776, 107 S. Ct. 2113, 95 L.Ed.2d 724 (1987); *see also In re World Trade Ctr. Disaster Site Litig.*, 503 F.3d 167, 170 (2d Cir. 2007). The first two factors are “the most critical.” *Id.*

With all the factors and the circumstances of this case in mind, the Court has considered defendant’s arguments and finds them unavailing. Significantly, defendant has not demonstrated either likelihood of success on the merits or that it will suffer irreparable injury absent a stay. Accordingly, the motion is denied.

SO ORDERED.

Dated: May 12, 2016
Central Islip, New York

/s/
Sandra J. Feuerstein
United States District Judge